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Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, help us to see the invisible movement of Your Spirit in people and in events. Beyond our everyday world of ongoing responsibilities and the march of secular history with its sinister and frightening possibilities, You call us to another world, a world of suprasensible reality which is the mainspring of the universe, the environment of everyday existence and our very life and strength at this moment. Help us to know that You are present, are working Your purposes out, and have plans for us. Give us eyes to see Your invisible presence working through people, arranging details, solving complexities, and bringing good out of whatever difficulties we commit to You.

We begin this week on Flag Day affirming our loyalty to You, dear God, and to our great Nation. Grant the Senators eyes to see You as the unseen but ever-present Sovereign. Then help them to claim Your promise: "Call to me, and I will answer you and show you great and mighty things which you do not know" (Jer. 33:3). Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

FLAG DAY

Mr. LOTT. Mr. President, I thank the Chaplain, as always, for his beautiful prayer and for recognizing this is Flag Day, June 14. It is a day in which we should all take a moment to be proud and thankful for the country that we live in because the flag is the symbol of our country, and it is appropriate that we honor it on this day, June 14.

(Mrs. HUTCHISON assumed the Chair.)

SCHEDULE

Mr. LOTT. Madam President, today the Senate will be in a period of morning business until 1 p.m. Following morning business, the Senate will begin consideration of the energy and water appropriations bill with amendments expected to be offered throughout the day. Votes were scheduled to occur at 5:30 p.m. However, we expect to reach an agreement, hopefully within the next few minutes, requiring Senators to file amendments to the energy and water appropriations bill by 5 o'clock today. Assuming that is agreed to, then there would be no votes today.

As a reminder, a series of votes will occur on Tuesday beginning at 2:15 p.m., and the first votes in the series will be on the completion of the Y2K legislation, to be followed by cloture votes on the Social Security lockbox issue and the oil, gas, and steel appropriations bill.

So we will have three votes at 2:15, and we may even have additional votes at that time because we could have amendments that will have to be voted on with regard to the energy and water appropriations bill and even, hopefully, final passage.

For the remainder of the week, we expect to complete the energy and water appropriations bill no later than the close of business Tuesday. Today, I will file cloture on the House-passed Social Security lockbox bill, with that cloture vote occurring on Wednesday. We also expect to continue with the appropriations bills process when they become available, hopefully disposing of all that would be available to us. That could include the military construction appropriations bill, legislative branch, transportation, and State-Justice-Commerce.

I realize we can't do all those this week, but we will work with the Demo-

cratic leadership to see if we can maybe do one or more of those bills in a short period of time. We also have entered into an agreement with regard to State Department authorization, with a limited amount of time and, I presume, a limited number of amendments. We will try to find an opportunity to do that this week. Perhaps Friday morning we could take up that bill and complete action on it by noon, and that would be the final vote of the week.

Therefore, I think Members should be aware now votes will occur on Friday. This will be a very busy week with votes occurring every day, and we probably will go into the evening at least on Thursday. But it will depend on how things proceed.

Let me take a moment now to express, frankly, my disappointment in the Senate at the number of Senators who have indicated they will not be here or would not be here for a vote late this afternoon. Senator DASCHLE and I have discussed the dates on Mondays or Fridays when we knew we would not have votes. We have advised Members of that. That was true last month, and we have indicated a couple dates here in the next month or so. But unless we say there will not be votes, Members should expect to have votes occur sometime after 5 o'clock on Mondays and up until 12 o'clock on Fridays.

Because of the large number of Senators who were not going to be able to be here this afternoon, we have decided to defer the votes until tomorrow. But that inconveniences other Senators, some of whom came all the way back across the country to be ready to vote at 5 o'clock, only to find that because of the number of Senators who say they are not coming back, we are not going to have a vote.

So I am very disappointed in that. I have to assume some of the responsibility because we could go ahead and say we are going to vote at 5:30. But I

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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do have to take into consideration that we do have a large number of Senators who would not be present for a vote.

So I am taking this opportunity to publicly admonish the Senate as a whole. Last week, I had Senators who said, well, we shouldn't vote on Tuesday morning. I had some Senators say we can't be here at Thursday noon. If it continues at this pace, we will have votes stacked in sequence on Wednesday afternoon at 3 o'clock, which would suit me fine, but I don't think it is a very good way to do business. I do intend to have votes on Fridays so we can complete our work. It is not that I necessarily want them; it is because we have to have them in order to complete our work. So I hope Senators will plan on being here on Mondays and Fridays because we do assure them that there will be no votes before 5 and no votes after 12. But I was very disappointed in what the whip check looked like for today.

SENATE LEGAL COUNSEL

Mr. LOTT. Madam President, I do want to note that for the first time in history, within the last month, the Senate leadership has selected our first woman to be the Senate legal counsel, and she is Pat Bryan. She has served at the Justice Department and at the White House in the past. She is highly capable, and we are delighted to have her joining the Senate in this very important position. But my reason for wanting to comment this morning is to talk a moment about the position and to talk about her predecessor who served as legal counsel.

Among the officers of the Senate, one of the least known is the Senate Legal Counsel. There is a reason for that.

The Legal Counsel usually works out of the limelight, away from publicity, serving the Senate with a certain anonymity that is appropriate for the very important responsibilities of the office.

The Office of the Legal Counsel is, in effect, the Senate's own law firm. Its staff handles any litigation concerning the Senate or its Members acting in their official capacity.

The Senate Legal Counsel also advises the Senate, not about legislation, but about legal matters of all sorts. The most recent and most dramatic instance, of course, was the impeachment trial of President Clinton.

Throughout that extraordinary experience, our Legal Counsel, Thomas B. Griffith, played a crucial role in shaping our procedures.

He assured the legal propriety of everything we did, keeping us, along with the Parliamentarian, true to the Senate's rules and precedents.

The meticulousness he brought to our labors was characteristic of Tom's work, as was the unflappable demeanor and unwavering courtesy he showed throughout the impeachment ordeal.

With gratitude for Tom's service to the Senate for the last four years, and yet with deep regret at the prospect of

losing him, I must report that he will be rejoining his former law firm of Wiley, Rein, and Fielding.

It is customary on occasions like this to say that we all wish him well. In this case, that is an understatement.

We wish Tom the best, as he deserves, for that is what he has given to the Senate.

One example of his dedication should suffice. Tom lives quite a distance away from Washington, considerably outside the Beltway even, in Lovettsville, Virginia.

During the weeks of the impeachment proceedings, Tom left his family there and moved closer to the Capitol, to be always available to us here, spending perhaps one day a week with Susan and the children.

I want all of them—Chelsea, Megan, Robbie, Erin, Torre, and Tanne—to know that, during those weeks when they must have sorely missed their dad, he was serving his country in a very important way.

That kind of selfless service has always been a part of Tom's life, from his days as a missionary in Zimbabwe with the Church of Jesus Christ of Latter-day Saints through his activities with the Federalist Society.

His example of integrity and commitment to the highest ideals of the law has brought honor to the Senate. He leaves us now with our affection and our enduring gratitude.

WELCOME TO THE NEW SENATE PAGES

Mr. LOTT. Madam President, I take note that we have a new group of pages that are joining us today. We look forward to having their presence and their assistance as we carry out our duties on behalf of the American people. They will be playing an important role in how the Senate conducts itself. We are delighted to have them here and we welcome them aboard.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

FLAG DAY

Mr. HATCH. Mr. President, today is Flag Day. Utahns, and indeed Americans all across our great country, revere the flag as the unique symbol of the United States and of the principles, ideals, and values for which our country stands. Who can forget the majestic image of the Marines raising Old Glory on the island of Iwo Jima during World War II or of school children pledging their allegiance to the American flag?

Over the years, the love and devotion our diverse people have for the American flag has been reflected in the actions of our legislatures. During the Civil War, for example, Congress awarded the Medal of Honor to Union soldiers who rescued the flag from falling into rebel hands.

During World War I, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Flag Act that numerous state legislatures adopted to prohibit flag desecration.

Congress declared the "Star Spangled Banner" to be our national anthem.

In 1949, Congress expressed the love the American people for their flag by establishing June 14 as Flag Day. Congress also adopted "The Pledge of Allegiance to the Flag" and the manner of its recitation which millions of school children observe each school day.

In 1968, Congress adopted a federal statute to prohibit flag desecration. More recently, Congress designated John Philip Sousa's "The Stars and Stripes Forever" as the national march.

As with numerous societal interests that affect free speech, legislatures of 48 States and the federal government and the courts also have long respected society's interest in protecting the flag by balancing this interest against the individual's interest in conveying a message through the means of destruction of the flag instead of through the means of oral or written speech.

The Supreme Court continues to strike the balance in favor of society's interests in public safety, national security, protection from obscenity, libel, and the protection of children even though these interests can and do implicate the First Amendment.

In the 1989 case of *Texas v. Johnson*, however, the Supreme Court abandoned the traditional balance in favor of society's interest in protecting the flag and adopted an absolute protection for the individual's interest in communicating through the means of physically destroying the American flag.

Congress responded to the Johnson decision with a statutory attempt to restore balanced protection to the physical integrity of the American flag—the Flag Protection Act of 1989. However, in the 1990 case of *United States v. Eichman*, the Supreme Court relied on the new rule it created in Johnson to reject statutory protection of the flag.

The recent reintroduction of another flag protection statute, which has been introduced in prior Congresses, is also clearly unenforceable under the Johnson and Eichman precedents. Even Professor Lawrence Tribe, a defender of the statute struck down in Eichman, has stated that the reintroduced statute cannot be upheld under the new rule of Johnson and Eichman.

Moreover, in the 1992 case of *R.A.V. v. City of St. Paul*, the Supreme Court clearly stated that it will no longer uphold statutory protection of the flag from desecration. Accordingly, the only realistic way to restore traditional balanced protection for the flag is with a constitutional amendment.

In March of this year, Senator CLELAND and I introduced Senate Joint Resolution 14, a constitutional amendment to protect the American flag.